

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

**KATE EGAN, ALTISHA LEWIS, DENA  
BEAVERS, KENNETH BERRY, and  
AMBER LYNE**, individually, and on behalf  
of others similarly situated,

Plaintiff,

Case No.: 23-cv-1148

Hon.: Matthew F. Kennelly

Hon. Susan E. Cox

vs.

**A.W. COMPANIES, INC.**, a Minnesota  
Corporation,

Defendant.

---

**JOINT STATUS REPORT**

The parties submit the following status report in anticipation of the status conference scheduled for March 27, 2024. As set forth below, the Parties are progressing through the collective/class discovery process.

**Discovery to Defendant:** Plaintiffs served Defendant with written discovery requests on October, 16, 2023. Defendant served its initial responses on November 29, 2023.<sup>1</sup> Defendant produced supplemental document productions on February 22, 2024, and again, on March 12, 2024, and intends to serve an additional supplementation of ESI by March 27. In the past 30 days, Defendant has produced approximately 10,000 documents responsive to Plaintiffs' requests. Plaintiffs' Counsel has completed its review and intends to serve a deficiency letter, which will be followed by an additional meet and confer.<sup>2</sup>

Additionally, on March 19, 2024, Plaintiffs served two (2) additional interrogatories.

---

<sup>1</sup> Plaintiffs served their first deficiency letter by email on January 29, 2024. Defendant responded to same on February 19, 2024.

<sup>2</sup> The Parties conducted a meet-and-confer regarding various discovery issues on March 7, 2023 and again at the random opt-in selection on March 13, 2023.

Specifically, Plaintiffs asked for Defendant to: 1) identify the client programs (e.g. Meijer, BTM, Thumbies, or Microf) each opt-in worked on; and 2) identify the total number of class members that worked on each of the programs. To date, Plaintiffs have been unable to identify any opt-in that worked on any program other than Meijer. Plaintiffs believe this information is essential to structuring the discovery process, as if non-Meijer opt-ins exist, then they should be included in the representative discovery pool. Defendants will be supplying this information before formal answers to discovery requests are due.

The Parties will endeavor to resolve most, if not all, of their disputes regarding Defendant's discovery responses without court intervention. However, motion practice might be required.

**Discovery to Named Plaintiffs:** Defendant served written discovery on the five named Plaintiffs. Plaintiffs Egan, Berry, and Lyne served responses on March 18, 2024, which Defendant is reviewing. As explained below, Plaintiffs' Counsel intends to withdraw the consent to join forms for Plaintiffs Lewis and Beavers (because they never worked close to 40 hours in a week), so they did not respond to written discovery. Plaintiffs will seek leave to add new class representatives for Minnesota and Michigan. Those representatives would be subject to full discovery from Defendant.

**Discovery to Opt-In Plaintiffs:** The parties conducted a random selection of 20 Opt-In Plaintiffs on March 13, 2024. For various reasons, Plaintiffs believe another random selection will be required. Defendant disagrees, but is willing to meet and confer with Plaintiffs on this issue.

As previously stated, Plaintiffs' Counsel cannot identify any opt-in that worked for any client other than Meijer – and it seems increasingly possible that none exist. However, if any non-Meijer opt-in exists, Plaintiffs' Counsel believes it is necessary to include one or more of them in

discovery pool.<sup>3</sup> Defendant is agreeable to identifying the potential non-Meijers opt-ins. Plaintiffs will provide their list of opt-ins for discovery promptly upon identifying the existence (or nonexistence) of a non-Meijer opt-in.

Defendant is presently prepared to furnish its list of opt-ins to receive discovery.

**Third Amended Complaint:** Plaintiffs intend to seek leave to file a third amended complaint to (1) substitute new named Plaintiffs in place of Plaintiffs Lewis and Beavers and (2) add Meijer Inc. as a defendant under a joint-employer liability theory; (3) amend to bolster or add unlawful time rounding allegations. However, Plaintiffs believe good cause exists to postpone the filing of an amended complaint until Defendant's document production is completed and Plaintiffs have had adequate time to review the documents produced. Defendants dispute that such good cause exists.

**Amended Scheduling Order:** As stated above, the Parties have been actively litigating this case. However, for several reasons, the parties intend to submit a joint stipulation to amend the discovery deadlines in the discovery order. Plaintiff also wishes to extend the deadline to amend the pleadings and join additional parties, which is April 1, 2024. Defendant opposes this extension. Plaintiffs ask that the Court hear argument on this issue at the status conference and decide the amendment of pleading deadlines in connection with the other discovery deadlines, which the Parties agree need to be extended. Defendant believe the issue is sufficiently complicated to warrant, at the least, informal letter briefing before the Court can issue such an order.

---

<sup>3</sup> Plaintiffs' Counsel has been attempting to identify a non-Meijer opt-in by making phone calls to the opt-ins. Thus far, no non-Meijer opt-ins have been identified.

Dated: March 20, 2024

Respectfully Submitted,

**ASH LAW, PLLC**

s/Charles R. Ash, IV

Charles R. Ash, IV (P73877) (*Admitted*)

402 W. Liberty St.

Ann Arbor, MI 48103

Phone: (734) 234-5583

Email: [cash@nationalwagelaw.com](mailto:cash@nationalwagelaw.com)

**MORGAN & MORGAN, P.A.**

Andrew R. Frisch (FBN 027777) (*Admitted*)

55 E Monroe Street, Suite 3800

Chicago, IL 60603 Phone: (954) WORKERS

Fax: (954) 327-3013

Email: [AFrisch@forthepeople.com](mailto:AFrisch@forthepeople.com)

**HOOPER HATHAWAY, P.C.**

Oscar Rodriguez (P73413) (*Admitted*)

126 S. Main St.

Ann Arbor, MI 48104-1903

Phone: (734) 662-4426

Email: [orodriguez@hooperhathaway.com](mailto:orodriguez@hooperhathaway.com)

*Counsel for Plaintiff and the  
Putative Collective/Class Members*

**NILAN JOHNSON LEWIS PA**

/s/Austin J. Spillane

Austin J. Spillane (MN 400317)

250 Marquette Avenue South, Suite 800

Minneapolis, MN 55401

Telephone: 612-305-7500

Facsimile: 612-305-7501

[porozco@nilanjohnson.com](mailto:porozco@nilanjohnson.com)

[aspillane@nilanjohnson.com](mailto:aspillane@nilanjohnson.com)

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 20, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/Charles R. Ash, IV